

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Motion for Attorneys' Fees and Costs [#132]. Defendant has filed a written response to the motion. For the reasons set forth below, Plaintiff's motion is granted.

In an Order dated April 10, 2006, this Court denied Plaintiff's Combined Motion for Attorneys' Fees on Count I of Plaintiff's Second Amended Complaint. Plaintiff was granted leave to amend the motion consistent with the findings and conclusions stated in the Order.

In the April 10, 2006 Order, the Court found that Plaintiff may not recover fees incurred in the litigation of a separate case pending in a separate state and denied its claim for attorneys' fees charged by New York attorneys Cohen, Tauber, Spievack &

Wagner, LLP. The Court also found that Plaintiff is not entitled to attorneys' fees which do not relate to the prosecution of Count I nor those incurred beyond April 4, 2005, except for, perhaps, work relating to motions for reconsideration of the Order and/or the Rule 54(b) determination. The Court further concluded that since certain costs listed in the Bill of Costs were also included in Plaintiff's motion for attorneys' fees, Plaintiff's amended motion should reflect a reduction for the costs already awarded.

Plaintiff now claims it is entitled to attorneys' fees in the amount of \$114,649.73, which represents only the fees and expenses charged by its attorneys at Greensfelder, Hemker, & Gale, P.C. in St. Louis, Missouri. The amended fees have been itemized as follows:

<u>Period</u>	<u>Amount</u>	<u>Description</u>
01/28/04-040/4/05	\$83,335.00	litigation efforts to enforce contract;
04/04/05-05/31/05	\$4,129.00	consider & respond to motion for reconsideration;
04/04/05-05/31/05	\$4,974.00	consider & respond to motion re: Rule 54(b) determination;
07/01/05-12/31/05	\$19,625.00	efforts collecting attorneys' fees & costs entitled to per the parties' contract;
11/01/05-12/31/05	\$887.00	efforts seeking amended judgment to incorporate judgment on Count I;
N/A	<u>\$1,699.73</u>	expenses exclusive of those already awarded as court costs.
Total	\$114,649.73	

Defendant contends that Plaintiff's motion for attorneys' fees, as amended, continues to be over-reaching and without a basis. The Court, however, finds Plaintiff's amended motion to be well-taken, as it is consistent with the Court's findings and conclusions stated in the April 10, 2006 Order.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Attorneys' Fees and Costs, [#163], is granted; Plaintiff is granted attorneys' fees in the amount of ONE HUNDRED FOURTEEN THOUSAND SIX HUNDRED FORTY-NINE DOLLARS AND SEVENTY-THREE CENTS (\$114,649.73);

Dated this 9th day of May, 2006.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE